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Technical assistance and capacity-building

Report of the United Nations High Commissioner for Human Rights on the human rights situation and the activities of her Office in the Democratic Republic of the Congo*

Summary

In its resolution 24/27, the Human Rights Council invited the United Nations High Commissioner for Human Rights to submit a report to its twenty-seventh session on the situation of human rights and the activities undertaken by her Office in the Democratic Republic of the Congo. The present report covers the period from June 2013 to May 2014.

In the present report, the High Commissioner commends the efforts made by Congolese authorities to address serious human rights concerns. In particular, the prosecution of State agents for human rights violations continued to increase, including through mobile court hearings. In addition, in February 2014, the Government promulgated an Amnesty Law for acts of insurrection, acts of war and political offences, excluding amnesty for genocide, war crimes, crimes against humanity and other serious violations of human rights. It is also encouraging that the Government has proposed legislation aimed at establishing specialized chambers within the civilian justice system to try perpetrators of war crimes, crimes against humanity and genocide. The Government further constructively engaged with the United Nations human rights mechanisms.

* Late submission.

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Despite these efforts, the High Commissioner remains concerned about the human rights situation prevailing in the Democratic Republic of the Congo, particularly in the eastern provinces. While the defeat of Mouvement du 23 mars (M23), in November 2013, has had a positive impact on the security and human rights situation, the operations of several armed groups to control resource-rich territories still represent a serious threat for civilians, with gross human rights violations being perpetrated, including mass rape.

Numerous armed groups as well as members of the Congolese defence and security forces regularly commit serious human rights violations, particularly in eastern provinces affected by conflict. Armed groups remain a predominant threat in the provinces of North Kivu, South Kivu, Orientale and Katanga, as well as in some areas of Maniema.

The fight against impunity also remains of major concern. The justice system faces various challenges in investigating and prosecuting perpetrators of human rights violations. Military tribunals, where they exist, are often understaffed and under-resourced. The lack of independence of the military justice system from military hierarchy is particularly problematic.

The challenges and threats faced by human rights activists, journalists and political opponents further remain of serious concern, particularly in the lead-up to the 2015 provincial and local elections and the 2016 presidential and legislative elections.

The report reiterates previous recommendations of the High Commissioner, notably with regard to addressing impunity for past and present violations.

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List of acronyms

APCLS	Alliance des Patriotes pour un Congo libre et souverain
ADF	Allied Democratic Forces
CEDAW	Committee on the Elimination of Discrimination against Women
FARDC	Armed Forces of the Democratic Republic of the Congo
FDLR	Democratic Forces for the Liberation of Rwanda
FRPI	Forces de résistance patriotiques en Ituri
MONUSCO	United Nations Organization Stabilization Mission in the Democratic Republic of the Congo
M23	Mouvement du 23 mars
NGO	non-governmental organization
OHCHR	Office of the United Nations High Commissioner for Human Rights
PNC	Congolese National Police
UNJHRO	United Nations Joint Human Rights Office

I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 24/27 on technical assistance and capacity-building for human rights in the Democratic Republic of the Congo, and is the fourth such report. It provides an overview of the situation of human rights, and of the activities undertaken by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in the country from June 2013 to May 2014.

2. The report highlights main developments affecting human rights during the reporting period. It then focuses on issues concerning the protection of civilians, the fight against impunity, and the situation of journalists, human rights defenders and political opponents. The report also highlights the Government's efforts to fulfil its obligations vis-à-vis the United Nations human rights mechanisms.

II. General trends and major developments affecting the human rights situation throughout the country

3. Between June 2013 and May 2014, the United Nations Joint Human Rights Office (UNJHRO) registered human rights violations affecting nearly 6,200 victims, 80 per cent of which occurred in the conflict-stricken provinces of North Kivu, South Kivu and Orientale. The most documented type of violations pertained to physical integrity, including torture, inhuman and degrading treatment and sexual violence affecting over 2,400 victims. Sexual violence remains a major concern, with around 310 incidents registered during the reporting period, involving some 730 victims, mostly in North Kivu, South Kivu and Orientale.

A. Violations committed by armed groups

4. During the period under review, combatants of different armed groups, taken altogether, were responsible for nearly 50 per cent of the total number of victims registered by UNJHRO. Members of M23, the Democratic Forces for the Liberation of Rwanda (FDLR), the Allied Democratic Forces (ADF) and Mai Mai groups were among the main perpetrators. The violations were mainly committed during attacks on villages aimed at gaining control over certain territories and/or in retaliation for the communities' real or perceived collaboration with opposing parties.

5. For example, during an attack on 11 December 2013, at least 21 civilians, including 11 children, were killed by ADF combatants in Beni territory, North Kivu province. Most of the victims were first abducted and then brutally killed by machete, some beheaded. They were targeted for their alleged collaboration with Armed Forces of the Democratic Republic of the Congo (FARDC) soldiers.

6. The number of abductions of civilians by armed groups remains alarming. For instance, between 25 August and 22 September 2013, at least 73 civilians, including 13 children, were abducted by armed combatants in three separate incidents in North Kivu. Of those abducted, at least 12 were executed and eight women were raped. Most of the abductions which took place during the reporting period were committed by ADF combatants while a large number of abductions were also reportedly conducted by Nyatura combatants in Rutshuru territory, North Kivu province.

7. In parts of northern Katanga province, hundreds of civilians were victims of serious human rights violations in incidents of violence linked to an insurgency by Mai Mai groups known as "Kata Katanga". Following investigation missions conducted from March 2013

to September 2013, during which over 300 victims and witnesses were interviewed, UNJHRO was able to confirm that at least 59 civilians, including four children, were killed during different attacks by Mai Mai combatants between May 2012 and June 2013. During those attacks, at least 245 civilians, including seven children, were also victims of cruel, inhuman or degrading treatment and other violations of the right to physical integrity. This included the rape of at least 45 women, including five girls. Other human rights violations included the abduction and/or arbitrary or unlawful detention of at least 255 civilians, as well as the destruction, including burning, of houses or entire villages. The UNJHRO teams faced limited access to the affected areas for the documentation and verification of the high number of allegations received throughout the reporting period. The figures mentioned above thus only refer to cases that UNJHRO was able to confirm and probably underrepresents the actual number of human rights violations committed by various combatants.

8. According to preliminary findings of a UNJHRO investigation mission conducted during the reporting period, at least 106 women, including 33 minors, were reportedly raped, at least 100 individuals abducted, and three summarily executed by Mai Mai combatants during attacks on villages in Mambasa territory, Orientale province, between 20 February and 18 May 2014. The majority of those attacks followed the alleged killing of the leader of the group, Paul Sadala alias Morgan, by FARDC soldiers, on 14 April 2014, while he was reportedly surrendering.

B. Violations committed by the defence and security forces

9. Defence and security forces were responsible for serious human rights violations in various parts of the country, including in non-conflict areas — affecting nearly 50 per cent of the total number of victims of human rights violations documented.

10. On 30 December 2013, in Lubumbashi and Kinshasa, 70 civilians were killed, mainly by FARDC soldiers, during a defence and security operation against followers of political opponent and religious leader Joseph Mukungubila, in response to attacks against strategic government installations in Lubumbashi, Kinshasa and Kindu.

11. The results of investigations carried out by UNJHRO in July 2013 showed that FARDC soldiers had also been responsible for killing at least 19 civilians and for other serious human rights violations, including extensive looting, between July 2012 and July 2013, in Katanga province, during operations in Pweto territory against Mai Mai combatants. In an incident on 17 November 2013, in Manono territory, Katanga province, FARDC soldiers allegedly shot to death nine adults accused of being Mai Mai Kata Katanga combatants. In addition, more than 370 cases of looting and destruction of property were reported to have taken place in August and September 2013, during FARDC military operations against Forces de résistance patriotiques en Ituri (FRPI) combatants in several villages in the southern part of Irumu territory, Orientale province.

12. Human rights violations, including arbitrary killings, perpetrated by agents of the Congolese National Police (PNC) were also registered during the reporting period. In this regard, UNJHRO observed that, in the western provinces, the majority of the human rights violations registered between June 2013 and May 2014, had been committed by PNC agents. Moreover, from 15 November 2013 to 15 February 2014, an operation named "Likofi",[1] organized in Kinshasa to target so-called "kulunas",[2] resulted in the summary

[1] "Operation Likofi" means "Operation Punch" in Lingala.

execution of at least nine civilians, including one child, and the enforced disappearance of a minimum of 32 civilians, including three children.

13. The high number of cases of torture and arbitrary and/or unlawful arrests and detention remains of concern throughout the country, including in the western provinces. From June 2013 to May 2014, UNJHRO recorded nearly 950 victims of torture, cruel, inhuman or degrading treatment and other violations of the right to physical integrity, including sexual violence.

14. In May 2014,[3] UNJHRO and other United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) components, along with the Vice-Minister of Human Rights, visited 62 detention centres in Kinshasa to monitor arrest procedures and conditions of detention, and to assess their compliance with national and international human rights standards. At least 99 individuals, who had been illegally detained, were released as a result of those visits. UNJHRO also increased awareness activities and training on the prohibition of torture, in collaboration with the Government. Unfortunately, very few cases of torture were prosecuted during the reporting period.

III. Protection of civilians

A. Main concerns

15. The protection of civilians at risk of serious threats to their life and physical integrity remains a priority, particularly in the provinces of North Kivu, South Kivu, Katanga and Orientale, where the Congolese armed forces have been engaged in military operations against armed groups. More than 75 per cent of victims of human rights violations documented by UNJHRO during the reporting period were registered in those provinces.

16. The MONUSCO proactive approach to neutralizing armed groups in eastern Democratic Republic of the Congo, as mandated by Security Council resolutions 2098 (2013) and 2147 (2014),[4] through the Intervention Brigade, has yielded some positive results in terms of security. Indeed, as a result of the Brigade operations, some armed groups have been significantly weakened or neutralized. This is particularly the case in Rutshuru territory, North Kivu province, which had been under the de facto control of M23 from November 2012 until it was defeated in October 2013. In addition, the increased military pressure on armed groups has forced thousands of combatants to surrender and disarm. As of April 2014, 3,700 combatants have gathered in several transit camps, pending their participation in the disarmament, demobilization, repatriation, resettlement and reintegration programme. Protection issues remain in relation to this process, as former combatants are known to harass and intimidate the local population living around the transit camps. Due to slow progress in implementing the programme, there is a high risk of demobilized combatants returning to armed activities and/or banditry.

17. Human rights concerns also emerged in the context of FARDC and MONUSCO military operations against armed groups. As FARDC have limited capacity to hold an area once it is cleared, this leads to armed groups filling the security vacuum. Furthermore, civilians are often victims of reprisal attacks by parties to the conflict due to their actual or

[2] "Kulunas" is the term used to describe groups of armed bandits operating in Kinshasa who have allegedly been responsible for various crimes, including killings and armed robbery.

[3] The joint visits started in May and ended in June 2014.

[4] On 28 March 2014, the Security Council adopted resolution 2147 (2014), which renewed the mandate of the Intervention Brigade, granting it the competence to "neutralize" armed groups.

perceived collaboration with one of the parties. Ongoing conflicts in eastern Democratic Republic of the Congo are further complicated by the relationship between some FARDC units and certain armed groups. Indeed, in some cases, FARDC has used certain armed groups as proxy forces against other groups, a tactic that has generated further human rights violations. As an illustration, on 15 February 2014, a patrol of soldiers from the 813th FARDC regiment was reportedly attacked by Alliance des Patriotes pour un Congo libre et souverain (APCLS) combatants in Loashi, Masisi territory. In reprisal, nearly 60 households were burned down in Kasho, almost 90 others in Bonde, and 100 in Bukombo, Masisi territory, by soldiers of the regiment in coalition with Nyatura combatants. Some destruction of property and looting were reportedly committed in those villages during the attacks.

18. Of particular concern is the pattern of attacks and reprisals whereby parties to the conflict target civilians on the basis of their ethnicity. The lack of State authority in conflict areas has pushed some local civilians to create alliances with armed groups, often on ethnic lines, in order to receive protection. Such alliances often trigger attacks by the opposing group. For instance, in February 2014, gross human rights violations were registered in the context of ethnic tension and armed clashes between combatants of the Congolese defence forces (Hunde ethnicity) and Nyatura combatants (Hutu ethnicity) in Masisi territory, North Kivu province. At least 40 civilians perceived to be collaborating with Nyatura combatants were killed in that context, some with firearms and others with machetes. Several villages in the area were reportedly burned down by Nyatura elements in reprisal. Some FARDC elements have also been responsible for attacks against civilians seemingly along ethnic lines. For example, during the reporting period, FARDC elements reportedly committed serious human rights violations against civilians believed to be collaborating with Mai Mai groups in northern Katanga, against civilians of the Ngiti ethnic group, whom they perceived to be affiliated with FRPI combatants in Orientale province, as well as against Hunde civilians in Masisi territory, who are associated with APCLS combatants owing to their ethnicity.

19. The instability linked to armed group activities and FARDC operations against armed groups in the east has continued to trigger mass displacement of civilians. Thus, in January 2014, when FARDC and MONUSCO began launching military operations against ADF in Beni territory, North Kivu province, more than 65,000 people sought refuge around the town of Nobili, with the total number of internally displaced persons in the district reaching 178,000 at the end of March 2014. The humanitarian situation of those persons was further aggravated by the fact that they could not access their fields, their source of livelihood and food, due to military operations and the prevailing insecurity. Humanitarian personnel have also been experiencing difficulties delivering life-saving aid to those areas due to security issues.

20. At the same time the improved security situation in certain territories, such as Rutshuru in North Kivu province, has facilitated the return of some internally displaced persons. Their number thus decreased in all the eastern provinces from 2,964,000 in December 2013 to 2,635,000 in March 2014.[5]

B. Actions taken by the United Nations Joint Human Rights Office

21. UNJHRO has been assigned as the lead component within MONUSCO on protection of civilians, particularly in areas affected by conflict. As such, it contributes,

[5] Office for the Coordination of Humanitarian Affairs monthly figures, "Democratic Republic of the Congo: internally displaced persons and returnees" (March 2014).

among other things, to the planning and organization of the deployment of Joint Protection Teams, which are interdisciplinary missions comprised of various MONUSCO components. They aim at identifying protection threats, especially those linked to armed conflict, taking measures to mitigate such threats, recommending steps to MONUSCO peacekeeping military contingents and their decision-making bodies on civilian protection issues, and seeking accountability for violations — including as a deterrent to future threats. More than 50 such missions took place during the reporting period, in North Kivu, South Kivu and Orientale provinces. However, UNJHRO has been facing various constraints in that context, particularly lack of access to the most insecure areas.

22. During the reporting period, UNJHRO and other MONUSCO components took action to strengthen military and civilian cooperation during the planning and in the conduct of military operations, with the goal of ensuring the protection of civilians during such operations. To this effect, several civil/military forums were set up to work jointly towards the common objective of reducing threats against the civilian population, with an emphasis on early warning and rapid response functions in areas affected by the conflict.

23. UNJHRO continued to provide support for the effective implementation of the human rights due diligence policy on United Nations support to non-United Nations security forces, which is instrumental in protecting civilians. The policy indeed requires that all United Nations assistance to security forces be conditioned upon respect for human rights, international humanitarian law, and refugee law. In some cases, the implementation of the policy has led to improvements in the behaviour of FARDC troops and has resulted in a generally safer environment for civilians.

24. On several occasions, however, MONUSCO has intervened to remind the FARDC hierarchy that support would be withdrawn from specific units suspected of committing human rights violations should violations continue to be perpetrated and mitigating measures not be taken. Whilst in the short term the policy aims at putting an end to human rights violations, in the longer term it seeks to ensure the accountability of perpetrators and capacity-building of the security forces in matters pertaining to human rights promotion and protection.

IV. Fight against impunity

A. Main developments

25. During the reporting period, some progress continued to be observed in the fight against impunity, more specifically in the prosecution of FARDC and PNC elements, particularly of lower ranks, for acts constituting human rights violations.

26. According to information available to UNJHRO, from June 2013 to April 2014, 175 State and non-State actors were convicted for acts constituting human rights violations. This number included 136 State agents, including 89 FARDC soldiers (comprising 11 senior officers), 44 PNC agents, and two elements of the National Intelligence Agency. The highest number of convictions was for rape, while the second most common conviction was for homicide. Only two individuals were convicted under torture charges during that period.

27. Commitments to address impunity for sexual violence and other human rights violations are encouraging.[6] Of note are the 13 arrest warrants for international crimes against alleged M23 members or their affiliates issued by Congolese judicial authorities between May and July 2013. At least 10 of those warrants were issued for crimes against humanity, including rape and sexual slavery. Extradition requests for four M23 elements, namely Jean-Marie Runiga and Colonels Zimurinda, Ngaruye and Badege, were addressed to the Government of Rwanda in July 2013, after those individuals had reportedly fled to Rwanda in March 2013.

28. However, many challenges remain in the fight against impunity. Several case files considered important, given the high number of victims, remain unresolved due to lack of action by judicial authorities to hold the perpetrators accountable. For example, investigations have been stalled concerning mass rapes allegedly committed in Bushani and Kalambahiro by FARDC soldiers, and those allegedly committed in Walikale by members of armed groups.[7] In those particular cases, few arrests have taken place and the judicial authorities have not conducted thorough investigations. In the Bushani and Kalambahiro events, the Military Prosecutor's Office opened a file with the support of UNJHRO. Two officers were questioned and the North Kivu military hierarchy refused to allow more officers to be interrogated and provide any relevant documents to the Military Prosecutor. Concerning the Walikale events, the only alleged perpetrator who was arrested escaped during a mass breakout from Goma prison during the fall of Goma in November 2012.

29. While judicial authorities initiated investigations into some of the violations of human rights and fundamental freedoms committed during the 2011 electoral period,[8] little progress has been observed with regard to the prosecution of the alleged perpetrators of gross violations committed in Kinshasa in that context.

30. On 5 May 2014, the Operational Military Court of North Kivu delivered its judgement on the *Minova* case[9] and convicted 26 FARDC soldiers, but most were acquitted regarding charges of rape and their superiors were exonerated from command responsibility. Only two soldiers were convicted for rape, one for murder and the others for charges such as looting and violations of the military code. This is of concern as, based on investigation missions into the case conducted from 30 November to 17 December 2012, UNJHRO confirmed that at least 135 victims, including 33 girls had been raped during the Minova incident. Although there is no possibility for appeal, in contravention of

[6] See MONUSCO/OHCHR report, "Progress and obstacles in the fight against impunity for sexual violence in the Democratic Republic of the Congo" (April 2014), para. 26.

[7] Ibid., para. 37.

[8] See MONUSCO/OHCHR, "Report by the United Nations Joint Human Rights Office on the violations of human rights and fundamental freedoms committed during the electoral period in the Democratic Republic of the Congo, as well as on the actions taken by Congolese authorities in response to these violations (October 2011–November 2013)" (December 2013).

[9] On 20 November 2013, in Goma, the Operational Military Court of North Kivu held its first hearing in the *Minova* case pertaining to serious human rights violations, including mass rape, committed by FARDC soldiers in Minova and surrounding areas, Kalehe territory, South Kivu province, between 20 November and 2 December 2012. Thirty-nine FARDC elements, including seven senior officers, were accused of crimes against humanity and war crimes of rape, as well as other crimes and military offences. MONUSCO provided technical advice to the prosecution, as well as assistance concerning the security and protection of victims and witnesses, in coordination with international partners.

international humanitarian law and human rights law standards[10] and the Constitution, the victims' lawyers have filed an appeal against the judgement.[11]

31. The *Minova* case underscores the persistent challenge of ensuring the accountability of military superiors, including for the misconduct of units under their command. It also highlights the limitations of the judicial institutions in prosecuting the crime of rape, as well as the lack of thorough judicial investigations into grave crimes. Many other cases of serious human rights violations have remained unpunished and/or related investigations have been marked by prolonged delays.[12]

32. For instance, in the *Chebeya* case,[13] the appeal proceedings that opened in 2012 before the highest military court (Haute Cour Militaire) were suspended in May 2013, following the submission of the victims' lawyers regarding a procedural error in the judicial notice to the accused. As required by the Constitution, the Haute Cour Militaire suspended its hearings on the appeal case, pending a decision from the Supreme Court which has exclusive jurisdiction to hear any constitutional challenges. There is no information as to when the Supreme Court will act upon the case.[14]

33. During the reporting period, the Government had not taken any action to establish a reliable vetting mechanism for its security forces, although various United Nations human rights mechanisms[15] have consistently called for measures to ensure that human rights violators are not maintained within, or integrated into, the security forces. Consequently, individuals suspected of committing gross human rights violations remain within the armed forces, including senior officers.

34. During the universal periodic review of the Democratic Republic of the Congo on 29 April 2014, the Minister of Justice and Human Rights announced that a new version of the draft law on specialized chambers had been submitted to Parliament. In May 2014, the bill was sent back by Parliament on the grounds of constitutional concerns. Further to the ratification by the Democratic Republic of the Congo on 11 April 2002 of the Rome Statute of the International Criminal Court, legislation which would implement the Rome Statute into national laws remains to be adopted. Ideally, the two bills should be discussed by Parliament in a manner that ensures their complementarity and avoids the creation of legal gaps or contradictions.

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[10] See International Covenant on Civil and Political Rights, art. 14.

[11] See OHCHR, Spokesperson for the United Nations High Commissioner for Human Rights, Press briefing notes on Ukraine, Nigeria and Democratic Republic of the Congo, 6 May 2014.

[12] See MONUSCO/OHCHR report, "Progress and obstacles", paras. 36–41.

[13] Floribert Chebeya and his driver, Fidèle Bazana, were assassinated on 2 June 2010, on the outskirts of Kinshasa. On 23 June 2011, the Military Court of Kinshasa/Gombe convicted five policemen, three of them in absentia, of murder, illegal arrest and detention as well as abduction in that case, but stopped short of finding any criminal responsibility of higher-level police officers, in particular the then Commissioner-General of the Congolese National Police, General John Numbi. All parties to the proceedings, including the State, the defence and the victims appealed against the verdict of the trial court.

[14] In June 2014, acting on behalf of the families of Mr. Chebeya and Mr. Bazana, a group of NGOs led by the International Federation of Human Rights, filed a complaint in Senegal against one of the accused who had reportedly fled to that country after escaping from prison in the Democratic Republic of the Congo.

[15] See Draft report of the Working Group on the Universal Periodic Review (A/HRC/WG.6/19/L.3 of 1 May 2014), para. 133.106; and Committee on the Elimination of Discrimination against Women, Concluding observations of the combined sixth and seventh periodic reports of the Democratic Republic of the Congo (30 July 2014), para. 10 (e).

B. Actions taken by the Office of the United Nations High Commissioner for Human Rights

35. UNJHRO has continued to provide assistance to the justice authorities in the fight against impunity, including technical and logistical support to bring investigators and magistrates to sites where human rights violations have been committed. More specifically, in partnership with the United Nations Development Programme and national and international NGOs, UNJHRO provided support to four missions,[16] conducted by judicial authorities in various parts of the country, to investigate human rights violations, including extrajudicial or summary executions, torture, sexual violence, and arbitrary and/or unlawful arrests and detention.

36. For example, from 6 to 12 January 2014, a joint team, composed of UNJHRO staff members, other MONUSCO colleagues and personnel from the Military Prosecutor's Office were deployed to Irumu territory, Orientale province, to investigate allegations of human rights violations committed in the context of FARDC military operations against FRPI combatants. The investigation resulted in the arrest of 18 FARDC elements who have since been charged with various crimes, including summary executions, rape, arbitrary arrests and illegal detention. Four were released due to lack of evidence.

37. During the reporting period, UNJHRO also provided logistical and technical assistance to three mobile court hearings,[17] in collaboration with other partners. For instance, it provided financial support to mobile court hearings in Kalehe, South Kivu province, from 19 to 28 May 2014. As a result, the South Kivu military court convicted five FARDC soldiers and two PNC agents of sexual violence, issuing sentences ranging from four to 15 years of imprisonment. UNJHRO monitored the trial and observed that due process had been observed. The victims and the accused had legal representation and protection measures were implemented to protect the victims who testified during closed hearings. Besides ensuring accountability, another benefit of such hearings was the visibility of justice in the communities where the violations occurred.

38. The fight against impunity was a prominent item during the visit of the United Nations Deputy High Commissioner for Human Rights to the Democratic Republic of the Congo in August 2013.[18] The Deputy High Commissioner reiterated the OHCHR commitment to assisting the authorities in the fight against impunity for gross human rights violations and discussed how to move forward with prosecutions concerning emblematic cases, including rape cases and other gross human rights violations committed in Walikale and Bushani, North Kivu province, in Ituri, Orientale province, and Minova, South Kivu province.[19] She stressed the need to prosecute all perpetrators of sexual violence, including high-ranking officers.

39. On 25 March 2014, the Human Rights Council, with OHCHR support, held a high-level dialogue on lessons learned and continuing challenges in combating sexual violence

[16] To South Kivu, North Kivu, Equateur and Orientale provinces.

[17] Of the three hearings supported by UNJHRO during the reporting period, two were in South Kivu and one in Equateur province.

[18] From 22 to 28 August 2013, the Deputy High Commissioner, Flavia Pansieri, visited the Democratic Republic of the Congo (see OHCHR press release, "Respect for human rights key to stabilization succeeding in DRC", 28 August 2013, available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13667&LangID=E).

[19] See MONUSCO/OHCHR report, "Progress and obstacles", paras. 36–41.

in the Democratic Republic of the Congo.[20] The event brought together a broad range of speakers, including the Minister of Justice and Human Rights and the Minister of Gender, Family and Child Affairs of the Democratic Republic of the Congo, the Special Representative of the Secretary-General on Sexual Violence in Conflict, the Deputy Special Representative of the Secretary-General for the Democratic Republic of the Congo and Head of the Rule of Law Component of MONUSCO, the Vice-Chair of the Committee on the Elimination of Discrimination against Women; the Permanent Representative of the African Union to the United Nations in Geneva, one NGO representative and the United Nations High Commissioner for Human Rights. The fight against impunity was discussed, as well as the questions of prevention, multisectoral assistance to survivors, and reparations. Various interventions from Member States conveyed the need for further action to strengthen the justice system, protect victims and witnesses, and ensure the affordability and accessibility of justice.

40. Public reporting has remained a core activity of UNJHRO and has been a tool for contributing to the fight against impunity in the Democratic Republic of the Congo. In addition to the report of the High Commissioner on the situation of human rights and the activities of her Office in the Democratic Republic of the Congo presented to the Human Rights Council in September 2013,[21] public reports were issued on human rights violations committed on election-related human rights violations,[22] and on the fight against impunity for sexual violence.[23] The latter documented more than 3,600 victims of rape perpetrated by State agents, mainly FARDC soldiers, and members of armed groups, and analysed some of the challenges in the administration of justice during 2010–2013.

V. Situation of journalists, human rights defenders and political opponents

41. The situation of human rights defenders and journalists in the Democratic Republic of the Congo remains precarious as, owing to their activities, they continue to be victims of killings, death threats, physical attacks, intimidation, harassment, and arbitrary and/or unlawful arrests and detention by State agents and armed groups. UNJHRO has recorded human rights violations against more than 40 human rights defenders and 20 journalists during the period under review.

42. UNJHRO recorded several cases involving security and defence forces harassing, intimidating, and confiscating equipment from journalists. For instance, in July 2013, in Kolwezi, Katanga province, two journalists from a local television station were beaten and had their cameras confiscated by PNC agents after filming the forced eviction of a family. In another incident, on 20 January 2014, in Goma, North Kivu province, a journalist from an independent radio station was reportedly beaten and his video camera confiscated by an agent of the Republican Guard who had accused him of investigating the illegal allocation of plots on the shores of Lake Kivu to FARDC soldiers.

43. Armed groups also targeted human rights defenders. For example, in August 2013, in Kawankolo, Pweto territory, Katanga province, a human rights activist was reportedly killed by a group of Mai Mai Kata Katanga combatants. The victim had denounced human

[20] A summary of the dialogue is available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14435&LangID=E.

[21] A/HRC/24/33 of 12 July 2013.

[22] See MONUSCO/OHCHR, "Report by the United Nations Joint Human Rights Office on the violations of human rights and fundamental freedoms".

[23] See MONUSCO/OHCHR report, "Progress and obstacles".

rights violations allegedly committed in the territory during clashes between FARDC soldiers and Mai Mai Kata Katanga combatants. In March 2014, a female human rights activist and lawyer was found dead in Beni territory, North Kivu province. She had reportedly been stabbed to death by unidentified individuals.

44. Members or supporters of opposition parties have also been exposed to human rights violations. Since June 2013, UNJHRO has recorded around 20 cases of human rights violations committed by State agents against members of the opposition and their supporters. For instance, in February 2014, in Bukavu, South Kivu province, at least 26 civilians, including 10 supporters of the Union pour la nation congolaise, were reportedly injured by PNC agents during a political rally organized by the Union President, Vital Kamerhe. Victims treated at a local hospital suffered from tear gas, gunshot wounds and beatings. Furthermore, Mr. Kamerhe's activities were restricted by the authorities on several occasions and he was denied access to fly from Kinshasa to the east of the country to launch his "caravan of peace".

45. Those developments are particularly worrying in the light of the 2015 local and provincial elections and the 2016 presidential and legislative elections. It is worth recalling that during the 2011 electoral period, the main victims of human rights violations were people identified as political party members or sympathizers, mainly targeted by defence and security forces who aimed at restricting their activities.

46. On 29 April 2014, during the universal periodic review of the Democratic Republic of the Congo, the Government indicated that a draft law on the protection of human rights defenders would be submitted to Parliament for the second time. OHCHR has been supporting NGO initiatives towards the adoption of the bill on the protection of human rights defenders. On 6 and 7 March 2014, UNJHRO, in partnership with the Carter Center, and through the Universal Periodic Review Voluntary Trust Fund, provided technical and financial support for the organization of a workshop aimed at finalizing and validating the bill. The workshop brought together a member of the National Assembly, a senator, legal advisers from the Ministry of Justice, and more than 20 representatives of NGOs or human rights defenders. The workshop provided an opportunity to produce new draft legislation. The High Commissioner encourages the prompt adoption of the bill.

VI. Update on national mechanisms for the promotion and protection of human rights

A. National human rights commission

47. On 21 March 2013, following high-level advocacy by the Ministry of Justice and Human Rights, local human rights groups and UNJHRO, legislation was promulgated establishing a national human rights commission. However, as of June 2014, the Commission had not yet been set up as Parliament had not appointed its members, as foreseen by the law.[24] The High Commissioner encourages the Parliament to promptly ensure the appointment of commissioners.

[24] Loi organique No. 13/011 du 21 mars 2013 portant institution, organisation et fonctionnement de la Commission nationale des droits de l'homme.

B. National and provincial *entités de liaison*

48. During the reporting period, all provinces of the Democratic Republic of the Congo were equipped with a provincial *entité de liaison*, a forum of discussion on human rights violations involving the authorities and human rights partners, including UNJHRO. The steering committee of the national *entité de liaison* was set up on 25 January 2014 and is chaired by the Prime Minister. However, the *entités de liaison* should be properly financed and resourced in order to be operational.

VII. Cooperation with United Nations human rights mechanisms

A. Universal periodic review

49. The Working Group on the Universal Periodic Review of the Human Rights Council reviewed the human rights situation in the Democratic Republic of the Congo on 29 April 2014.[25] UNJHRO organized a live transmission of the session for representatives of the Ministry of Justice and Human Rights, NGOs and the diplomatic community in Kinshasa. On 2 May 2014, the Working Group adopted its final report on the review of the Democratic Republic of the Congo, which contained 229 recommendations. The Government of the Democratic Republic of the Congo accepted 190 of the recommendations.

50. Many States urged the Government to strengthen efforts to combat sexual violence by ensuring that all perpetrators are brought to justice and victims gain increased access to justice. Many also called on the authorities to ensure that the rights to freedoms of expression and peaceful assembly be respected; to enact legislation to give effect to the Rome Statute of the International Criminal Court; and to operationalize the national human rights commission.

51. The recommendations rejected by the Government included a call to abolish the death penalty, and a request to extend a standing invitation to all special procedures mandate holders of the Human Rights Council.

52. The universal periodic review process was supported throughout by UNJHRO. The Office held workshops for Government officials and civil society members in preparation for the review. On 20 and 21 November 2013, in Kinshasa, UNJHRO and the Carter Center organized a workshop for 27 NGO representatives and human rights groups on the submission procedure for NGO contributions to the review. The workshop also served as a platform to discuss the recommendations issued in the 2009 universal periodic review of the Democratic Republic of the Congo and how the second review process could be used to address the most important human rights concerns. From 16 to 20 December 2013, in Kinshasa, OHCHR trained 42 individuals, including members of the Interministerial Committee on Human Rights and NGO representatives, on how to submit reports for the universal periodic review and to the United Nations human rights treaty bodies. On 21 and 22 January 2014, in Kinshasa, UNJHRO held a workshop that included ministers and civil society actors, to review the State report. As a result of UNJHRO efforts, several NGOs submitted quality contributions to the universal periodic review and the Government submitted its State party report to the Human Rights Council in a timely manner.

[25] The documents are available from www.ohchr.org/EN/HRBodies/UPR/Pages/CDSession19.aspx.

53. On 15 May 2014, UNJHRO jointly with the Ministry of Justice and Human Rights and two international NGOs, organized a workshop on follow-up to universal periodic review recommendations. In total, 165 persons participated in the event, including Members of Parliament and representatives of the Interministerial Committee on Human Rights, representatives of the diplomatic corps and different ministries, lawyers, journalists and human rights activists.

B. Review of the Committee on the Elimination of Discrimination against Women

54. In July 2013, the Government presented its combined sixth and seventh periodic reports to the Committee on the Elimination of Discrimination against Women. The Committee noted some progress in the area of women's rights, including the adoption of the National Strategy against gender-based violence and the promulgation of the law to establish the National Human Rights Commission.[26] However, the Committee raised several concerns, including the shocking levels and nature of violence and sexual atrocities against women, and the lack of a proper vetting process to remove persons suspected of perpetrating serious human rights violations from official positions in the security forces. The Committee raised concerns over high levels of violence and discrimination against women in the entire country, including harmful practices and discriminatory legislation. It recommended that the Government prioritize the fight against impunity for sexual violence and ensure access to justice for all women affected by sexual violence during the conflict.[27] The Committee also requested the submission of information, within two years, on the implementation of recommendations to prevent and address sexual violence, to ensure access to justice, and to eliminate discriminatory provisions in the Family Code.

VIII. Conclusions and recommendations

A. Conclusions

55. **The Government of the Democratic Republic of the Congo is at a critical juncture on the long journey to improve the human rights situation of people living on its territory. Visible gains have been achieved in enhancing security and stability in eastern Democratic Republic of the Congo, with a positive impact on the human rights situation in some cases. Increased prosecutions of State agents for human rights violations also constitute an important momentum towards justice.**

56. **Despite some progress, efforts to protect human rights remain hampered by several overarching challenges. One of the main challenges remains the prevalence of impunity for perpetrators of human rights violations, especially high-level FARDC soldiers and leaders of armed groups.**

57. **Persisting impunity is itself partly due to another major structural challenge, which is the weakness of the justice system, and a general lack of effective accountability mechanisms. The justice system is undermined by deficiencies in conducting investigations, prosecuting perpetrators of human rights violations, and ensuring that prison terms are served. Military tribunals continue to be under-**

[26] Concluding observations on the combined sixth and seventh periodic reports of the Democratic Republic of the Congo (CEDAW/C/COD/CO/6–7 of 30 July 2013), paras. 5 (c) and 6 (d).

[27] Ibid., para. 10 (b)–(c).

resourced and consequently often lack the capacity to investigate and prosecute those responsible for many of the reported cases of human rights violations. More fundamentally, the lack of independence of the military justice system from the military hierarchy is a major concern. Fighting impunity for human rights violations requires coordinated and determined efforts by the executive branch, law enforcement bodies and judicial authorities.

B. Recommendations

58. **The High Commissioner recommends that the Government of the Democratic Republic of the Congo:**

(a) Address past human rights violations, including through the prompt adoption of the law on the specialized chambers consistent with international standards and, following broad consultations;

(b) Speed up the reform of the security sector, including the establishment of a reliable vetting mechanism, so that perpetrators of human rights violations are not maintained within or integrated into the security forces;

(c) Ensure that the future national human rights commission is operational through the prompt appointment of its members and appropriate financial and logistical capacity support for its effective functioning, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles);

(d) Ensure the implementation of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and accordingly, and with the assistance of the Subcommittee on the Prevention of Torture established in the context of the Protocol, create a national mechanism to prevent torture;

(e) Enact an appropriate legal framework for the protection of human rights defenders, journalists and other media workers and the strengthening/and or creation of protection mechanisms;

(f) Ensure that the rights to freedom of expression and peaceful assembly be respected so as to create a safe and conducive environment for the legitimate and peaceful activities of civil society;

(g) Devise a national action plan for the implementation of recommendations of the United Nations human rights mechanisms, including the universal periodic review and treaty bodies;

(h) Extend a standing invitation to all thematic special procedures mandate holders, and provide detailed responses to their communications.

59. **In view of the above recommendations, the Human Rights Council should continue to be seized of the situation of human rights in the Democratic Republic of the Congo.**